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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,706	07/10/2006	Satoshi Ithori	082418-000700US	4320
20350 7590 04/28/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
LIM, SENG HENG				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
04/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/585,706

**Applicant(s)**

IHORI ET AL.

**Examiner**

SENG H. LIM

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2, 3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/22/2009 has been entered.

### ***Response to Amendment***

This office action is in response to the amendment filed on 1/22/2009 in which applicant amends claims 2, 3, 5-8 and responds to the claim rejections. Claims 2, 3, 5-8 are pending.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2, 3, 5-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant claims the message output unit outputs the main and sub messages based upon a predetermined condition, wherein the sub message is arbitrary. The examiner does not understand how the sub message is arbitrary (i.e. chosen/selected by chance) while at the same time being predetermined.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3, 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Uenishi et al (US 2003/0013533 A1).

Re claim 2. Uenishi et al disclose a message output device (Fig. 1) comprising:

a battle control unit (CPU, 1) which controls a battle (i.e. baseball game) between characters belonging to opposing friend (self characters) and enemy sides (opponent characters) in a virtual space based on a predetermined instruction input (i.e. a battle or

baseball game is controlled using each player's game controllers to control each opposing friend and enemy side) [0034,, 0057];

a message storage unit (5, Fig. 2) which stores a plurality of main messages (512) matching progress statuses of the battle (i.e. broadcasting messages about the statuses of the baseball game or battle by the broadcaster), and a plurality of sub messages (511) matching winning and losing statuses of the friend and enemy sides (i.e. the audience's sound to indicate the winning and losing statuses of the self and opponent characters, for example, the game can have the audience cheering for home team's advantage or booing for home team's disadvantage);

a main message acquisition and sub message acquisition unit (i.e. voice processor, 11) which acquires a main message specified in accordance with a progress status of the battle (i.e. the broadcaster broadcasting the progression/status of the game) and detects winning and losing statuses of the friend and the enemy sides which change in accordance with a progress status of the battle at each predetermined timing, and acquires an arbitrary sub message matching the detected winning and losing statuses that are detected (i.e. the game can have audience cheering for home team's advantage or booing for home team's disadvantage) [0059, 0064-0065]; and

a message output unit (speaker, 23) which outputs the main message that is acquired and the arbitrary sub message based on a predetermined condition, wherein the message output unit further comprises a retaining unit (i.e. buffer, 15) that at least temporarily retains the acquired sub message and the main message;

wherein a priority order is set for each main message and each sub message; and said message output unit outputs the main message that is acquired and the arbitrary sub message in an order based on the priority orders (i.e. the main message or broadcasting data has higher priority over the sub message or cheering data, so when the main message and sub message is to be output simultaneously, the volume of sub message is decreased to allow the main message to be heard; Abstract, [0006-0010]).

Re claim 3. In a case where the main message and the arbitrary sub message are acquired at a same time, said message output unit outputs the main message preferentially (i.e. the main message or broadcasting data has higher priority over the sub message or cheering data, so when the main message and sub message is to be output simultaneously, the volume of sub message is decreased to allow the main message to be heard; Abstract, [0006-0010]).

Re claim 5. A life duration time is set at least for each sub message; and said message output device further comprises a message deletion unit which deletes the retained acquired sub message, when a life duration time has passed from the retaining unit (Note: a buffer is a region of memory used to temporarily hold data while it is being moved from one place to another. Typically, the data is stored in a buffer as it is retrieved from an input device such as main memory, voice processor, 11, or just before it is sent to an output device such speaker, 23). Each message has a life duration time during the buffering period.

Re claim 6. Please refer to claims 2, 3 & 5 above.

Re claim 7. Uenishi et al discloses a message control method utilizing a message storage unit, where message storage unit said stores a plurality of main messages matching progress statuses of a battle and a plurality of sub messages matching winning and losing statuses as discussed above in claims 2, 3 & 5.

Re claim 8. Uenishi et al discloses a computer-readable information recording medium storing a program for controlling a computer function as discussed above in claims 2, 3 & 5.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached USPTO form PTO-892.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seng H. Lim whose telephone number is 571-270-3301. The examiner can normally be reached on 8:30-6:00, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H. L./

Examiner, Art Unit 3714

/Corbett Coburn/  
Primary Examiner  
AU 3714